Previous references.

1906-7
(S & A.

File No. 620 of 05

Serial Nos. 3 to 5

Later references.
Cents 118 of 06
Sls 168 & 9 cancd.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B. for July 07

SUBJECT.

Privilege leave to Mr A E Staley
Chief Judge preparatory to
retirement

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3. From - The Chief Judge - Chief Court of Mysore No. 8216 of 20-6-06
Suggests that with reference to G.O. cancelling the rule re grant of privilege leave to officers preparatory to retirement, an exception may be made in his case & he may be allowed the benefit of.

4. To A. E. Staley Esqr & the Comptroller - No. Fl 1265-6 of 3-8-06
States that the Govt. regret that they do not see their way to sanction the privilege leave preparatory to retirement applied for by Mr. Staley as it involves a departure from the rule promulgated in G.O No. Fl 8190-235 of 26-5-06
SA 620-05-2

5 - From - The Chief Judge No. 330/26 of 17-7-06
G. R. S. 58
Submits his leave application for privilege leave with Comptroller's leave certificate

G. R. S. 11] 1905-06

GENERAL AND REVENUE SECRETARIAT.

(GAD)

NOTES.

File No. 620

FILE HEADING.

Grant of furlough leave to Chief Judge Mr A E Staley, preparatory to his retirement

From, The Chief Judge, Chief Court of Mysore

No. 8216/421 Dated 20-6-06 Received 21-6-06

Diary No. 5442 | Enclos. | Spare Copies. | Serial No. 3

BRIEF ABSTRACT OF LETTER.

Suggests that with reference to G.O. cancelling the rule re- granting of privilege leave to officers preparatory to retirement, an exception may be made in his case she may be allowed the benefit of it

NOTES AND ORDERS.

The file regarding the appointment of Mr. A.E. Staley is put up

Submitted for orders

RPL. It is not stated when Mr. Staley retires. Para 3 of G.O. No. 8190-235 22-6-06

26 June 06 A

NOTES—First sheet.

MGCPB—30,000—17 2-05.

Serial No.

retains the benefits of the old rule for persons retiring from the 1st of July next.

MY
23.6.06.

Please put up the papers regarding his retirement.

MMK.
27-6-06

Flag B

Subd
The papers required are putup. (D.O papers No 17)
SM
27/6/06

Submitted
Mr Staley has signified his intention to retire from the 2nd of August next

Letter 9/12/2/06 B

MY

Mr. Justice Staley requests that as his application to retire and sanction thereto were made ~~& sanctioned~~ & accorded during the Continuance of the rule regarding the Grant of privilege leave preparatory to retirement he may be given the benefit of the rule. As he is going to retire only from the 2nd August next, he cannot under the rules get the benefit of a provision withdrawn before his retirement.

An Officer's claim to leave is regulated by the rule in force at the time the leave is applied for & granted

Serial No.

Please See art-4(b) m&O. The time referred to in this rule is the time when the leave is actually availed of. If an officer avails himself of leave long after it is sanctioned, the rule in force when the leave is actually used & not those in force when the leave is sanctioned apply to the case. Sub? A Secy

Mr. 28.6.06

The rules strictly construed do not entitle Mr Staley to the privilege leave asked for. It is for Govt. to consider whether an exception may be allowed in his case, under the special circs set forth in his letter.

To Govt for the 1st & 2nd Crs.

4/41 30-6-06

I have already submitted my view (vide the applications filed therein Judicial Proceedings) that Judl Officers who enjoy a vacation may not be considered entitled to privilege leave in the sense of the rule in question.

made [illegible] Mr. 30/6/06 [illegible] 30/6/06

GPB—50,000—23 10-05

Serial No.

Mr Staley's case is not on all fours with that of our own judicial Officers who began and ended their career in the service of H H the Maharajas Govt He came to Mysore for a short time and under a special engagement after resigning the Indian Civil service

I would treat his case as one falling outside the Mysore service regulations and grant him such privilege leave as he may be entitled to When he took up service in Mysore it was fully understood that he would get such leave on his retirement and this

P.T.O.

MGCPB—50,000-17-2-05

Submitted to His Highness.

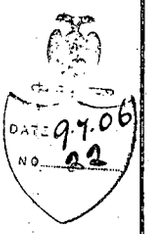
This is an application from Mr. A.E. Staley, Chief Judge of the Chief Court of Mysore, for being given the benefit of the rule regarding the grant of privilege leave preparatory to retirement.

The rules of 20th April 1903 having been since cancelled by Government Proceedings No.Fl.8190-23, dated 26th May 1906, Mr.Staley cannot get the benefit of the same under the rules as strictly construed.

But considering that Mr. Staley was given to understand at the time of his engagement that he would be given the benefit of our leave rules as in force at the time and that his application to retire was admitted and sanctioned during the continuance of the rule of April 1903, I recommend the grant of his request to be given such privilege leave as he may be entitled to preparatory to retirement.

9 Nov 1906 V.P. Madhava Rao

Record of Cases submitted for the Orders of His Highness the Maharaja.



Subject.

Grant of privilege leave to Mr.A.E.Staley, Chief Judge, preparatory to his retirement.

Order.

32

It is not clear to me how any privilege leave is due to Mr Staley. Chief Court udges, who enjoy vacations, are not, I understand, entitled to privilege leave. He can have no leave due for British service, for his retirement from the Indian C.S. cancelled that. If there is any leave due to him under the provisions of the Mysore service regns, I agree that he must get it. But I would clear up that point first and also mention the matter to the President.

KRW
10/7/06

Rec 14.7.06

G.R.S. 12]

General and Revenue Secretariat.

544 File No. 620 of 1905-06

Serial No.

w.o.H. 5 of 06
16-7-06

Forwarded (H.O.) The Comptroller, for favour of ~~favour~~ stating whether Mr Justice Haley is entitled to any leave under the Mysore Service Regns. The previous papers are sent herewith.

Mdchandrasekharaiah
Secy to Govt, Genl Dept

14.7.06

COMPTROLLER'S OFFICE
16. JUL. 1906
MYSORE

Note No 8 917-7-06.

The regular vacation does not affect the title to Privilege leave of Judges of the Chief Court. Mr Justice Haley is entitled to privilege leave under the provisions of ~~202A~~ art 202.A and in his case the vacation will be taken as duty for the purpose of calculating the period of leave due.

Under the rules as recently altered Mr Justice Haley can not get any privilege leave preparatory to retirement. But in Government order no A / Gl.Dl.16 J05-06 dated the 3d June 1906, privilege leave preparatory to retirement has been specially sanctioned to 5 allgnce officers up to 31st December 1906 and in the special circumstances

NOTE—Contn. sheet

MGCPB—50,000—17-2 05

Serial No.

of the present case, the Justice Haley may be treated specially as in the cases above mentioned.

If the above exception is made then the Haley will get privilege leave calculated as in ordinary cases except that he is entitled to half of salary during privilege leave instead of full salary and visible to officers ~~of~~ not enjoying any regular vacation

Sd/ Bnsi
17.7.06.

NOTE.—Contn. sheet.

MGCPB—50,000—17-2 05

Submitted to His Highness.

With reference to my note dated the 9th instant re privilege leave to Mr. Staley and His Highness' orders thereon, I resubmit the file with the Comptroller's opinion regarding Mr. Staley's title to leave. It will be seen that article 202A of the Mysore Service Regulations gives to Chief Court Judges a claim for privilege leave, though the leave allowances admissible would be only half the salary.

Though the rules as recently modified by the order of the 26th May 1906 do not allow of privilege leave being taken preparatory to retirement, the Comptroller thinks that a concession might be shown to Mr. Staley as it has been done in Government Order A-Gl.Fl.16 of 05-06, dated 30th June 1906, to certain officers who are to retire from 1st January 1907.

As suggested by His Highness in his order of the 10th July, I consulted the Hon'ble the Resident in the matter and I enclose his reply

for the perusal of His Highness. It will be seen that the Hon'ble the Resident does not think that any departure from the rules is called for and that he is not in favour of the leave being granted.

In the circumstances I think that Mr. Staley may be informed that the Durbar regret that they do not see their way to sanction the leave applied for by him.

Bangalore,

19th July 1906.

W 172/5

F. W. Lee

Your are aware that Mr. Staley intends to retire from the service of the Durbar early next month. He has asked to be allowed to take the privilege leave to which he is entitled, preparatory to retirement. The Comptroller is of opinion that Mr. Staley is entitled to privilege leave, but that under the rules as recently altered he cannot take it preparatory to retirement, and recommends that the leave may be granted to him as a special concession as has been done in the case of

certain officers of the Durbar, who retire from the

1st January next. The Durbar is inclined to grant

Mr. Staley's request, but before passing formal orders

I shall be glad to ~~know~~ hear your views in the matter.

Yours sincerely,

D. F. MacSharkey.

No 4274

THE RESIDENT MYSORE

BANGALORE.

July 27th 06

Dear Mr. Krishna Rao

In your d/o letter of 19th inst: you have asked for my views in the following matter.

Mr. Staley, Chief Judge wishes to take privilege leave preparatory to his retirement early next month. The Comptroller has ruled that Mr. Staley cannot take privilege leave preparatory to retirement,

under the Lyons Service
Regulations as altered by the
Order of 26th May 1906, but
recommends that the leave may
be granted to him as a special
concession. The Owners are
willing to grant Mr Stanley's
request
The case being as thus
stated it is my opinion
that the Court of Lyons would
be ill-advised to treat it
otherwise than under the rules.
Special concessions are justifiable

only by very special circumstances such as are adduced in the present instance, and the Barber will be creating a precedent, which will lay him open to well-grounded criticism while Gaolers having a demoralising effect upon the public services, if they permit an exception from their newly promulgated Order for no other apparent reason than that the officer affected is one holding a Gh appointment in the State

Yours sincerely

Sh Fraser

Record of Case submitted for the orders of His Highness the Maharaja.

Subject.

Further opinion regarding the grant of privilege leave to Mr.A.E. Staley, Chief Judge.

Order.

Approved

~~K.R.M.~~

30/7/06

G.R.S. 12J
General and Revenue Secretariat.

Sta File No. 620 of 1905-06

Serial No.

4 To. A.E. Staley Esqre. d the Comptroller No 7L1265-6 d: 3-8-06 Stating that the Govt regret that they do not see their way to sanction the privilege leave preparatory to retirement applied for by Mr A.E. Staley as it involves a departure from the rule promulgated in Govt Notn No 7L8190-235 d 26/8/05
Sta 620-05=2

5 From the Judge. No 330/26 d 17-7-06
Submits his leave application for privilege leave with Comptroller's leave certificate

Note—Contn. sheet

GPB—50,000—23-10-05

Points re Mr.Staley's leave.

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For	Against.
1. When he entered service rule granting privilege leave preparatory to retirement was in force.	1. But Government have power to alter rules from time to time.
2. He applied for retirement and his retirement was agreed to before the rule was withdrawn.	2. Under the Service Regulations, an officer's claim to leave is regulated by the rules in force at the time the leave is applied for and granted.
3. Such leave was allowed to his predecessor (Mr.Ramachandra Iyer).	3. This was under the old rules which clearly permitted the practice.
4. He is ordinarily entitled to privilege leave under article 202 A of Mysore Service Regulations.	4. Yes. But this is subject to other rules as to when the leave can be taken.
5. Government Order of the 26th May 1906 withdrawing concession says that "as the sudden withdrawal of an existing concession without previous notice is likely to cause hardship, this order will not be applied to those who retire this year from the 1st July 1906."	5. The concession ought to be strictly construed and if so done, it is inapplicable as Mr.Staley does not retire from 1st July.
6. To prevent similar hardship in case of certain officers who retire from 1st January 1907, privilege leave preparatory to retirement has been granted. Comptroller thinks that similarly leave preparatory to retirement may be given to Mr.Staley.	6. This will be a concession and against the rules as strictly interpreted. Mr.Staley is not in the list of those to whom the concession was specially extended.
7. This is not likely to be an inconvenient precedent, as the rules having been altered no such claims can be ~~made~~ put forward.	7. No doubt this is so, but the question is should we relax rules once laid down.
8. The peculiarity of Mr.Staley's case ~~being~~ that his retirement from August 1906 was accepted demi-officially in February 1906, but before it was formally announced and the actual time came for its being given effect to, the leave rules were changed.	8. See under 2.

The Concession may be justified on this ground (8) (Please See next page).

No. 8216
421

Bangalore,
20th June 1906.

From,

The Chief Judge,
Chief Court of Mysore.

To,

The Dewan of Mysore.

Sir,

With reference to Government Notification No.Fl.8190-235- S.& A. 620-05-2 dated 26th May 1906 cancelling order No 15097-136-P.& A.1396 dated 20th April 1903, I have the honor to submit the following representation.

Before accepting in 1904 the honor of appointment as Chief Judge of Mysore and consequently resigning the Indian Civil Service I stipulated and it was agreed in my letter of appointment that I should be entitled to have under the Mysore Service Regulations a copy of which was sent to me: and at that time the order of 20th April 1903 granting privilege - leave to officers preparatory to retirement was in force.The wording of the order was "that such privilege leave as an officer may be entitled to at the time of retirement be granted to him preparatory to his retirement from the service". My application to retire, and sanction thereto having been made and allowed during the continuance of the rule I submit that it would not be just to cancel the rule just before my actual retirement and to deprive me of the benefit of the rule under which I entered the service and applied to retire. I therefore respectfully suggest that in cancelling the rule an exception be made in my case and that I may be allowed the benefit of it.

I have the honor to be,

Sir,

Your most obedient servant,

A. E. Staley

Chief Judge.

Read :-

Letter no. 8316 / 421 dy
20th June 1906 from
the Chief Secy Chief
Comr of Mysore re-
questing for the reasons
stated that the Govt
Notification no. 8150-235
STA 620-05-2
dy 26th May 1906 cancelling
the concession of previlege
leave preparatory to
retirement may not
be applied in his
case, and that he
may be granted the
previlege leave to
which he is entitled
under the earlier order of
the 20th april 1903
No 15097-136 dy
PHA 1356.

No H 1285-6
STA 620-05-4

Copied SH. 3/8/06 dy 3-8-06

under

Order thereon :-

Issue of the Govt- Notification No. Fl 8190-235 Dy 26th May 1906 cancelling the concession of privilege leave preparatory to retirement in the case of persons who retire subsequent to 1st July 1906, Govt- regret- that they do not see their way to sanction the leave applied for by Mr Kelsey, as this implies a departure from the rule ~~laid down~~ ~~at the time of his retire~~

Secretary,

Govt Notification No. Fl 8190-235 Dy 26th May 1906

20 April 1903 allowing that "such privilege leave as an officer may be entitled to at the time of retirement be granted to him preparatory to his retirement from the service" and "ceased the service on 1904 under the rule" making a special agreement that my leave should be under the leave rules in order to guard against alteration of them after giving I applied to retire before the above government order was withdrawn and relying on it it was allowed to my predecessor I believe. Had the withdrawal been made before my application to retire, I should have applied for privilege leave for a proper purpose then returned to duty & applied to retire at the end of the necessary term I submit therefore that the withdrawal of the government order cannot justly be enforced against me as I cannot be restored to the position at which I applied to retire before the withdrawal.

C. S. Staley

Chief Judge

(2nd)

urgent D 283

Sam. III 6202

5 189 Comp.

From

Hon. Justice A. S. Staley

Chief Judge.

Chief Court of Mysore

To

THE SECRETARY TO THE GOVT. OF MYSORE,

Rev & Genl DEPT.

Dated 17th July 1906.

Despatched

Received

General No. 330

No. 26

Enclosure No. /

Undersigned has the honor to submit an application for Leave on behalf of

Hon. Justice A. S. Staley

Chief Judge.

the particulars of which are given overleaf.

* Applicant has recorded the declaration prescribed in section 442 of the Mysore Service Regulations.

C. S. Staley

Chief Judge

* To be omitted in cases other than privilege leave.

APPLICATION FOR LEAVE.

1. Name of applicant .. .. Hon'ble Justice A. G. Clarke

2. Rank and salary including allowances .. Chief Judge, Small Cause Court of Bangalore Rs. 2500 per mensem

3. District and station .. Bangalore

4. Nature of leave applied for, and section of the Service Regulations applicable. Privilege leave on half pay for 2 months and 8 days Article 202

5. From what date ... ... 3rd August 1906.

6. No. and date of Comptroller's certificate in support of the title to the leave with period and nature of the leave certified to. No 131 dated 17th July 1906 Privilege leave on half pay for 2 months and 8 days.

7. Arrangements proposed for conduct of applicant's duties during his absence and qualifications of the proposed officiator.

8. Other remarks, if any, such as necessity, urgency, &c. The application is under the Government order No. 15097-136 P and A 1396 dated

17-7-06
Order

COMPTROLLER'S OFFICE,

Finl.]

BANGALORE,

No. 131

Dated 17th July 1906

Leave Certificate.

Certified that Mr. Justice A. E. Staley I.C.S. Bar-at-Law

Chief Judge, Chief Court of Mysore

will have at his credit

under the Mysore Government ~~is entitled to~~ 2 months and 8 days privilege leave on half pay on the 3rd of August 1906

~~are~~ under Article 202 A of the Mysore Service Regulations, but the leave is required preparatory to retirement attention of Govt invited by Ofl No 8190-235 Dated 26 May 06

Forwarded to the ~~Registrar~~ Chief Court of Mysore Bangalore

with reference to his ~~docket No~~ D.O. dated 17th July 1906

Comptroller.

Inc 2ch

17/7/06

MCTPB—20 books 23-9-02